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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,158	09/11/2003	Carlo Smith	DD-P0009	2157
36067	7590	07/19/2004	EXAMINER	
DALINA LAW GROUP, P.C. 7910 IVANHOE AVE. #325 LA JOLLA, CA 92037			THOMAS, DAVID B	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/605,158

**Applicant(s)**

SMITH ET AL.

**Examiner**

David B. Thomas

**Art Unit**

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/11/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Miller (2004/0014404 A1).

Miller (2004/0014404 A1) discloses an apparatus for degrading the information bearing capability of a disk comprising: at least one abrader; a post configured to engage a disk hole; and, means for coupling said at least one abrader to said post. An apparatus for degrading the information bearing capability of a disk comprising: at least one abrader; a post configured to engage a disk hole; a case bottom coupled with said at least one abrader and said post; at least one pad; a post guide; and a case top formed to hold a disk against said at least one pad wherein said case bottom and said case top are configured to rotate about an axis defined by said post and said post guide when said case bottom and said case top are engaged; further comprising an ejector hole (the examiner respectfully contends that the recesses 120 and 120' in the embodiment illustrated in Fig. 9 equates to a hole, especially considering that the purpose of the recess is to serve as a means for ejecting the disk); further comprising at

Art Unit: 3723

least one disk latch; wherein said case top and said case bottom further comprise a non-slip surface; wherein said non-slip surface comprises finger grooves; wherein said case bottom is configured to hold particulate until said case top and said case bottom are disengaged. A method for degrading the information bearing capabilities of a disk comprising: placing a disk in a case top; engaging said case top to a case bottom; applying inward pressure to said case top and to said case bottom; rotating said case top with respect to said case bottom; abrading said disk; further comprising: disengaging said case top from said case bottom; ejecting said disk; and, emptying said case bottom of particulate. An apparatus for degrading the information bearing capability of a disk comprising: an abrader; an abrader arm; a post support; and, a post coupled with said post support coupled with said abrader arm coupled with said abrader configured to abrade a disk placed against said abrader when said disk is placed on said post and rotated about an axis defined by said post. A method for degrading the information bearing capabilities of a disk comprising: placing a disk against an abrader; coupling said disk to a post; applying inward pressure to a post support and said abrader; rotating said disk about an axis defined by said post; abrading said disk; further comprising: decoupling said disk from said post; and disposing of said disk. An apparatus for degrading the information bearing capability of a disk comprising: means for placing a disk in a case top; means for engaging said case top to a case bottom; means for applying inward pressure to said case top and to said case bottom; means for rotating said case top with respect to said case bottom; and, means for abrading said disk; further comprising: means for disengaging said case top from said case

bottom; means for ejecting said disk; and, means for emptying said case bottom of particulate. An apparatus for degrading the information bearing capability of a disk comprising: means for placing a disk against an abrader; means for placing said disk on a post; means for applying inward pressure to a post support and said abrader; means for rotating said disk about an axis defined by said post; means for abrading said disk; and, means for decoupling said disk from said post.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lalli et al., Kennedy et al., Sato et al., Born et al., Leikam, and Schmid each disclose abrading a disk.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David B. Thomas whose telephone number is (703) 308-4250. The examiner can normally be reached on 7-4 M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David B Thomas can be reached on (703) 308-4250. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 3723

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
dbt

  
David B. Thomas  
Patent Examiner  
Art Unit 3723